

To state a cause of action under § 1983, a plaintiff must allege facts indicating that he has been deprived of rights guaranteed by the Constitution or laws of the United States and that this deprivation resulted from conduct committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42 (1988). An attorney, whether retained or court-appointed, who defends a person against a criminal charge does not act under color of state law in his or her representation of that person. *See Polk Cnty. v. Dodson*, 454 U.S. 312, 317-24 (1981) (“A lawyer representing a client is not, by virtue of being an officer of the court, a state actor ‘under color of state law’ within the meaning of § 1983.”); *Hall v. Quillen*, 631 F.2d 1154, 1155-56 & nn. 2-3 (4th Cir. 1980) (court-appointed attorney); *Deas v. Potts*, 547 F.2d 800 (4th Cir. 1976) (private attorney). Accordingly, Wilson cannot pursue this § 1983 action against defense attorney, and the court will dismiss Wilson’s complaint pursuant to § 1915(e)(2)(B)(ii).

ENTERED this 27th day of January, 2021.

/s/ Thomas T. Cullen
HON. THOMAS T. CULLEN
UNITED STATES DISTRICT JUDGE